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In re Patent No. 6,967,559 :
Issue Date: 22 November, 2005 :
Application No. 10/801,079 : DECISION
Filed: 16 March, 2004 :
Attorney Docket No. E1-01US2 :

This is a decision on the petition filed on 2 June, 2009, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

Petitioner is reminded that the regulations require that Petitioner set forth both the application number and the patent number when submitting materials for a patented matter.

Moreover, it is noted that while Petitioner authorized additional fees:

- Petitioner expressly requested removal of small entity status yet stated only small entity fees at baseline;
- Moreover, Petitioner submitted the fees after the 3½ year anniversary, but neglected to itemize the surcharge

Petitioner has the responsibility of reviewing Petitioner's records and submitting accurate information to the Office.

Petitioner's submission is **accepted**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

The instant application is released to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2²) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney

¹ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

² The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.